

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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**COMPLETE STYLE OF THE CASE:**

**FORSYTH FINANCIAL GROUP, LLC, ASSIGNEE OF FIRST NATIONAL BANK OF  
OMAHA (VISA/MASTERCARD),**

**Respondent,**

**v.**

**NICK HAYES,**

**Appellant.**

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**DOCKET NUMBER WD72785  
MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**Date: August 23, 2011**

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Appeal from:  
Clay County Circuit Court  
The Honorable Donald T. Norris, Judge

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Appellate Judges:  
Division Four: Lisa White Hardwick, Chief Judge, Presiding, James M. Smart,  
Judge and Gregory Gillis, Special Judge

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Attorneys:  
Brue B. Brown, Kearney, MO, for appellant.  
William F. Whealen, Jr. St. Louis, MO, for respondent.

# **MISSOURI APPELLATE COURT OPINION SUMMARY**

## **COURT OF APPEALS -- WESTERN DISTRICT**

**FORSYTH FINANCIAL GROUP, LLC, ASSIGNEE OF FIRST NATIONAL BANK OF  
OMAHA (VISA/MASTERCARD)**

**Respondent,**

**v.**

**NICK HAYES,**

**Appellant.**

**WD72785**

**Clay County**

Before Division Four: Lisa White Hardwick, Chief Judge, Presiding,  
James M. Smart, Judge and Gregory Gills, Special Judge

Nick Hayes appeals the denial of his motion to set aside a default judgment pursuant to Rule 74.06(b). Hayes contends the default judgment was void and, therefore, the motion court erred in failing to grant relief.

**AFFIRMED.**

Division Four holds: To set aside a default judgment as void, Hayes had to demonstrate that the circuit court acted in such a way as to deprive him of due process. Hayes merely argues that the judgment is erroneous because the plaintiff lacked standing to assert breach of contract claims and the court had no authority to award attorneys' fees or interest beyond the statutory rate. These alleged errors did not affect Hayes' due process rights because he was served with the petition

and defaulted on his opportunity to raise any objections. Accordingly, the default judgment was not void, and the court properly denied the motion to set aside.

Opinion by: Lisa White Hardwick, Chief Judge

**August 23, 2011**

**THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.**